

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0352

SENATE BILL NO. 46

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to clarify the taxes for certain life insurance premiums and
2 annuity considerations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-44-2 be amended to read as follows:

5 10-44-2. Any company doing insurance business in this state shall pay a tax at the rates
6 specified in this section. The tax shall be paid to the Division of Insurance at the time the
7 company files its annual statement, or, if no annual statement is required, then before March
8 first of each year.

9 If, during the previous year, a company paid more than five thousand dollars in premium
10 taxes in this state, the company shall submit payments equal to one-quarter of the previous year's
11 premium taxes to the Division of Insurance on April thirtieth, July thirty-first, October
12 thirty-first, and January thirty-first. The quarterly payments shall be credited against the amount
13 due from the company at the time the company files its annual statement, or if no annual
14 statement is required, then on March first of each year. The director of the Division of Insurance
15 may waive the requirement in writing for quarterly payments or reduce the amount of deposit



1 if the director finds the requirement would impose an undue premium tax on a company because
2 of a significant decline in sales within the state. If the sum of the quarterly payments exceeds
3 the total taxes due, the director shall credit the overpayment against subsequent amounts due
4 or, if requested in writing at the time the company files its annual statement, refund the
5 overpayment to the company. If the overpayment cannot be credited, there is excess remaining
6 after the credit is taken on the annual statement, or the refund is not requested, the division may
7 refund the amount overpaid by May first of the following year. The rates are:

- 8 (1) On each domestic company, two and one-half percent of premiums, except for life
9 insurance policies, other than credit life as defined in chapter 58-19, of a face amount
10 of seven thousand dollars or less, for which the rate is one and one-fourth percent of
11 premiums; and one and one-fourth percent of the consideration for annuity contracts.

12 However, the rate for life insurance and annuities shall be computed as follows:

- 13 (a) Two and one-half percent of premiums for a life policy on the first one
14 hundred thousand dollars of annual premium, and eight one-hundredths of a
15 percent for that portion of ~~the a policy's~~ annual life premiums exceeding one
16 hundred thousand dollars; and

- 17 (b) One and one-fourth percent of the consideration for an annuity ~~contracts~~
18 contract on the first five hundred thousand dollars of consideration ~~for annuity~~
19 ~~contracts~~, and eight one-hundredths of a percent for that portion of the
20 consideration on an annuity ~~contracts~~ contract exceeding five hundred
21 thousand dollars.

22 The tax also applies to premiums for insurance written on individuals residing
23 outside this state or property located outside this state if no comparable tax is paid
24 by the direct writing company to any other appropriate taxing authority. However, the

1 tax applies only to premiums for insurance written after July 1, 1980, on individuals
2 residing outside of the United States;

3 (2) On each foreign company the rate shall be computed as follows:

4 (a) Two and one-half percent of premiums, except for life insurance policies,
5 other than credit life as defined in chapter 58-19, of a face amount of seven
6 thousand dollars or less, for which the rate is one and one-fourth percent of
7 premiums. ~~However, for that portion of the life insurance premiums exceeding~~
8 ~~one hundred thousand dollars annually, the rate shall be eight one-hundredths~~
9 ~~of a percent; and;~~

10 (b) ~~One and one-fourth percent of the consideration for annuity contracts on the~~
11 ~~first five hundred thousand dollars of consideration for annuity contracts, and~~
12 ~~eight one-hundredths of a percent for that portion of the consideration on~~
13 ~~annuity contracts exceeding five hundred thousand dollars~~ Two and one-half
14 percent of premiums for a life policy on the first one hundred thousand dollars
15 of annual premium, and eight one-hundredths of a percent for the portion of
16 a policy's annual life premiums exceeding one hundred thousand dollars; and

17 (c) One and one-fourth percent of the consideration for an annuity contract on the
18 first five hundred thousand dollars of consideration, and eight one-hundredths
19 of a percent for that portion of the consideration on an annuity contract
20 exceeding five hundred thousand dollars;

21 (3) On each insurer not licensed or not authorized to do business in this state the rate
22 shall be computed as follows:

23 (a) Two and one-half percent of premiums, except for life insurance policies,
24 other than credit life as defined in chapter 58-19, of a face amount of seven

thousand dollars or less, for which the rate is one and one-fourth percent of premiums. However, for that portion of the life insurance premiums exceeding one hundred thousand dollars annually, the rate shall be eight one-hundredths of a percent, and;

(b) ~~One and one-fourth percent of the consideration for annuity contracts on the first five hundred thousand dollars of consideration for annuity, and eight one-hundredths of a percent for that portion of the consideration on annuity contracts exceeding five hundred thousand dollars~~ Two and one-half percent of premiums for a life policy on the first one hundred thousand dollars of annual premium, and eight one-hundredths of a percent for that portion of a policy's annual life premiums exceeding one hundred thousand dollars; and

(c) One and one-fourth percent of the consideration for an annuity contract on the first five hundred thousand dollars of consideration, and eight one-hundredths of a percent for that portion of the consideration on an annuity contract exceeding five hundred thousand dollars;

(4) Fourteen dollars for each insurance policy issued or renewed for workers' compensation coverage.

Revenue from subdivision (4) of this section shall be deposited in the insurance operating fund of the state treasury and is dedicated to the Department of Labor for purposes of automating the administration of the workers' compensation law and supporting the Workers' Compensation Advisory Council.

Section 2. That chapter 10-44 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of this Act shall be retroactive to July 1, 2001, and shall apply to any

1 premium tax for any life insurance policy with an annual premium exceeding one hundred
2 thousand dollars and to any annuity with an annual consideration exceeding five hundred
3 thousand dollars.